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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 2008-242

14 **CURT L. SMITH, aka**  
**CURT LEE SMITH**  
15 12875 Amaranth Street  
San Diego, California 92129

**A C C U S A T I O N**

16 Registered Nurse License No. 495624  
17 Public Health Nurse Certificate No. 54181

18 Respondent.  
19

20 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the  
23 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
24 Affairs.

25 **License History**

26 2. On or about August 31, 1993, the Board issued Registered Nurse License  
27 Number 495624 ("license") to Curt L. Smith, also known as Curt Lee Smith ("Respondent").  
28 The license will expire on October 31, 2008, unless renewed. On or about August 15, 1995, the

1 Board issued Public Health Nurse Certificate No. 54181 to Respondent. The license will expire  
2 on October 31, 2008, unless renewed.

3 **STATUTORY PROVISIONS**

4 3. Section 2750 of the Business and Professions ("Code") provides, in  
5 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
6 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code  
7 section 2750) of the Nursing Practice Act.

8 4. Code section 2764, in pertinent part, that the expiration of a license shall  
9 not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
10 licensee or to render a decision imposing discipline on the license. Under Code section 2811,  
11 subdivision (b), the Board may renew an expired license at any time within eight years after the  
12 expiration.

13 5. Code section 118, subdivision (b), provides that the suspension,  
14 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to  
15 proceed with a disciplinary action during the period within which the license may be renewed,  
16 restored, reissued or reinstated.

17 6. Code section 2761 states, in pertinent part:

18 The board may take disciplinary action against a certified or  
19 licensed nurse or deny an application for a certificate or license for any of  
the following:

20 (a) Unprofessional conduct, which includes, but is not limited  
21 to, the following:

22 (4) Denial of licensure, revocation, suspension, restriction, or  
any other disciplinary action against a health care professional license or  
23 certificate by another state or territory of the United States, by any other  
government agency, or by another California health care professional  
24 licensing board. A certified copy of the decision or judgment shall be  
conclusive evidence of that action.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


4 1. Revoking or suspending Registered Nurse License Number 495624 issued  
5 to Curt L. Smith, also known as Curt Lee Smith;

6 2. Revoking or suspending Public Health Nurse Certificate No. 54181 issued  
7 to Curt L. Smith, also known as Curt Lee Smith;

8 3. Ordering Curt L. Smith, also known as Curt Lee Smith, to pay the Board  
9 the reasonable costs of the investigation and enforcement of this case, pursuant to Code section  
10 125.3; and,

11 4. Taking such other and further action as deemed necessary and proper.

12 DATED: 2/4/08

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14   
15 RUTH ANN TERRY, M.P.H., R.N.  
16 Executive Officer  
17 Board of Registered Nursing  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant  
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## **EXHIBIT A**

**State of Colorado Stipulation and Final Agency Order  
Proceeding No. RG NU DLOFB**

# STATE OF COLORADO

**STATE BOARD OF NURSING**

Mark Merrill, Program Director

1560 Broadway, Suite 1370

Denver, Colorado 80202

Phone (303) 894-2430

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[www.dora.state.co.us/nursing](http://www.dora.state.co.us/nursing)

**Department of Regulatory Agencies**

D. Rico Munn, Executive Director

**Division of Registrations**

Rosemary McCool, Director



Bill Ritter, Jr.  
Governor

**CERTIFIED COPY**

I hereby certify that the attached is a true and correct copy of the Stipulation and Final Agency Order regarding the license to practice as a professional nurse of Curt Lee Smith in the State of Colorado.

In testimony whereof, I sign my name and affix the seal of this Board at Denver, Colorado, on the 6th day of August 2007.

Charlene K. Douglas, Complaint Specialist

**RECEIVED**

JUL 15 2003

Colorado Board  
of Nursing

BEFORE THE STATE BOARD OF NURSING

STATE OF COLORADO

Proceeding No. RG NU DLOFB

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**STIPULATION AND FINAL AGENCY ORDER**

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IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE  
LICENSE TO PRACTICE PROFESSIONAL NURSING IN THE STATE OF  
COLORADO OF CURT LEE SMITH, R.N., LICENSE NO. 119920.

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IT IS HEREBY STIPULATED by and between the Colorado State Board of  
Nursing (the "Board") and Curt Lee Smith, R.N. ("Respondent") as follows:

1. The Board has jurisdiction over Respondent and the subject matter of this Stipulation and Final Agency Order ("Stipulation and Order").
2. Respondent was licensed to practice as a professional nurse in the State of Colorado at all relevant times herein, and is now so licensed.
3. Respondent admits as follows:
  - a. On or about August 30, 2002, Respondent was employed as a professional nurse at Community Hospital in Grand Junction, Colorado.
  - b. On or about August 30, 2002, Respondent diverted 500 mgs of Demerol in the form of five 100-mg/ml vials, using the names of three different patients. Two of the patients had been discharged, and one patient did not have an order for Demerol.
  - c. Demerol is a schedule II controlled substance.
  - d. Respondent admitted to his nursing supervisor that he diverted Demerol for his own use.
  - e. On or about August 9, 2002, Respondent was counseled for leaving a patient in his care unattended, and for leaving duty without giving report to oncoming staff.
  - f. On or about Augusts 29, 2002, Respondent was counseled for leaving a patient who had conscious sedation unattended.

g. Respondent resigned his nursing position at Community Hospital on September 4, 2002.

h. In District Court, Mesa County case no. 2002 CR 1214, Respondent plead guilty to §18-18-404(1)(a), C.R.S., Unlawful Use of Schedule 2 Controlled Substance, a class 5 felony.

i. On January 28, 2003, Respondent was given a deferred sentence of one year probation which requires him to participate in the Mesa County Intervention Program for drug offenders.

j. On October 4, 2002, Community Hospital filed a complaint with the Board regarding Respondent's diversion.

k. The Board agreed to abstain from pursuing formal discipline against Respondent's nursing license if he participated in the Colorado Nurse Health Program ("CNHP").

l. On January 23, 2003, Respondent signed an Agreement to Participate in CNHP.

m. In the Agreement, Respondent admitted to violating the Nurse Practice Act, § 12-38-117(1)(f), (h), and (i).

n. In the Agreement, Respondent agreed to sign a formal monitoring contract with CNHP within 60 days.

o. On March 25, 2003, Respondent was referred back to the Board for failure to sign a formal monitoring contract with CNHP.

4. By virtue of the facts admitted in paragraphs 3 above, Respondent admits, and the Board hereby finds, that Respondent violated § 12-38-117(1)(f), (h), and (i), C.R.S. (2002).

5. By virtue of the admissions in paragraph 3 and 4 above, Respondent agrees to a term of suspension, and such formal monitoring, upon reinstatement by the Board, to the extent that the Board believes such monitoring is necessary to protect the public health, safety and welfare.

6. The statutory authority of the Board is as follows:

**12-38-117. Grounds for discipline.** (1) "Grounds for discipline," as used in this article, means any action by any person who:



- (f) Has negligently or willfully practiced nursing in a manner which fails to meet generally accepted standards for such nursing practice;
- (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on patient records;
- (i) Is addicted to or dependent on alcohol or habit-forming drugs, is a habitual user of controlled substances, as defined in section 12-22-303 (7), or other drugs having similar effects, or is diverting controlled substances, as defined in section 12-22-303 (7), or other drugs having similar effects from the licensee's place of employment; except that the Board has the discretion not to discipline the licensee if such licensee is participating in good faith in a program approved by the Board designed to end such addiction or dependency;

7. a. Respondent's professional nursing license shall be suspended for a period of at least six months, commencing from the effective date of this Stipulation and Order. Respondent must request reinstatement in writing, and meet the following terms and conditions, prior to reinstatement:

b. Prior to and upon written application to the Board for reinstatement, Respondent must show weekly, random drug-free urine screening, personally monitored and administered by Respondent's Board-approved treatment monitor, for the previous six (6) months prior to reinstatement. The only urine analyses the Board will accept are those submitted and tested in compliance with the Board Urine Drug Screen Policy. The Respondent shall provide the written credentials of the treatment monitor to the Board prior to engaging in treatment. Respondent must submit favorable treatment monitor reports for the previous six months prior to reinstatement; and must submit proof of attendance at weekly Narcotics Anonymous, Alcoholics Anonymous, or other Board-approved twelve-step program meetings for the previous six months prior to reinstatement.

c. Respondent shall contact the Board in writing to determine the policies for reinstatement at the time Respondent decides to begin the six months compliance period. Respondent shall submit a reinstatement application and fee, if applicable.

d. Respondent shall comply with the terms and conditions set forth in paragraphs 8 and 9 below regarding his participation in the Board's Impaired Professional Diversion Program.

8. By entering into this Stipulation and Order, Respondent voluntarily requests, and the Board grants, permission to participate in the Board's Impaired Professional Diversion Program, also known as the Colorado Nurse Health Program ("CNHP"), as administered by the Colorado Nurse Health Program Committee (the "Committee"), pursuant to § 12-38-131, C.R.S. (2002). Before the Board will consider the application for reinstatement, Respondent shall submit an application to the CNHP and shall be evaluated by the CNHP to determine an appropriate monitoring and treatment plan. Respondent agrees to comply with all terms and conditions determined by the Committee for participation in the CNHP, and shall enter into a written contract with the Committee setting forth such terms and conditions.

9. Upon acceptance into CNHP, Respondent may then apply for reinstatement of his nursing license(s) and shall provide the Board with a copy of his CNHP application and fully executed CNHP contract. Respondent understands that he may be subject to additional terms of reinstatement, including re-examination and/or the successful completion of a refresher course, or any other educational requirements the Board in its discretion deems appropriate.

10. a. Respondent acknowledges that the CNHP shall provide a written or oral report to the Board within 24 hours, or next working day, of Respondent's termination from the CNHP for any reason other than successful completion. Respondent also acknowledges that the Board may proceed with formal disciplinary action against Respondent upon notification that Respondent has been terminated from the CNHP for any reason other than successful completion. Such termination may occur, without limitation, for any of the following reasons:

b. Failing to comply with Respondent's treatment plan or any of the terms of the contract;

c. Becoming unable to practice nursing with reasonable skill and safety;

d. Moving to another state, engaging in nursing practice, and failing to inform, in a timely fashion, that state's Board of Nursing, Diversion Program, or their equivalent, of Respondent's participation in Colorado's Nurse Health Program;

e. Failing to maintain eligibility criteria for CNHP participation;

f. Falsifying or failing to disclose information that Respondent may have violated any provisions of the Nurse Practice Act;

g. Relapsing or engaging in the unauthorized use of alcohol, controlled substances, habit-forming drugs, or any other drugs with the same or similar effects.

11. Respondent also acknowledges that if he is referred to the Board for non-compliance, documents kept in the possession of the CNHP regarding Respondent will be sent to the Board.

12. Respondent agrees that in the event that Respondent is notified that CNHP has referred Respondent back to the Board for discipline, Respondent will cease the practice of nursing until the Board and Respondent enter into a written agreement setting forth the terms and conditions under which Respondent may return to practice. Respondent retains the right to request a hearing regarding the allegation(s) that led to the referral back to the Board and appropriate discipline. Any such hearing will be held in accordance with § 24-4-105, C.R.S.

13. Should the CNHP be eliminated or in any way cease to exist, Respondent shall be placed on probation with the Board for the duration of Respondent's CNHP contract, under the same requirements as set forth in Respondent's contract with the Committee. The Board may review Respondent's status and the monitoring terms of the CNHP regarding Respondent's nursing practice, and said terms may be subject to amendment or revision, as the Board determines in its discretion that is necessary to protect the public health, safety, and welfare.

14. Prior to the effective date of this Stipulation and Order, Respondent must sign a medical information and records release form for use by the Board for the purpose of allowing the Board to obtain medical information and records of Respondent during the time period this Stipulation and Order is in effect. In the event that any provider requires an expanded or updated release, Respondent shall execute such release immediately. Respondent further agrees that any revocation of the medical information and records release before completion of the term shall constitute a violation of this Stipulation and Order, subject to discipline in accordance with paragraph 19, as set forth below. Respondent further waives any claim of confidentiality with regard to any treatment for any physical or mental condition which renders Respondent unsafe to practice with reasonable skill and safety for the duration of this Stipulation and Order. **Respondent's nursing license will not be reinstated until the Board receives a current, signed medical release form.**

15. Respondent agrees to inform the Board of any acts committed by Respondent which constitute violations of this Stipulation and Order, including, but not limited to, any failure to comply with the treatment program.

16. In the event of relocation to another state, Respondent shall notify the Board of the change of address within 30 days of such relocation, and hereby gives consent to the Board that it may notify the Board of Nursing, or the equivalent regulatory agency in any state to which Respondent relocates, of the existence and terms of, and compliance with this Stipulation and Order.

17. Respondent shall comply with all the provisions of the Nurse Practice Act and the rules and regulations of the Board.

18. Respondent is aware of and understands the right to receive a formal notice of hearing and charges and to have a formal disciplinary hearing, pursuant to § 12-38-116.5, C.R.S. (2002), and hereby waives those rights and requests that this Stipulation and Order be accepted by the Board with the same force and effect as an Order entered as a result of a formal disciplinary proceeding. Respondent further waives the right to appeal the Order entered herein.

19. a. Respondent understands that if, during the pendency of this agreement, the Board has reasonable grounds to believe that Respondent is in violation of either this Stipulation and Order, the Nurse Practice Act, or both, the Board may refer Respondent to hearing.

b. In the event this matter is referred to hearing for violation of this Stipulation and Order, this Stipulation and Order shall be admissible as evidence. In the event an alleged violation of this Stipulation and Order is taken to hearing and the facts that constitute the violation are determined to be unproven, no disciplinary action shall be taken by the Board, and this Stipulation and Order shall remain operative and in full force and effect. The pendency of any disciplinary action pursuant to this Stipulation and Order shall not affect the obligation of Respondent to comply with the terms of this Stipulation and Order.

20. If, at the end of Respondent's contract with the Committee, the Board finds that Respondent adhered to all the terms of this Stipulation and Order, then this proceeding shall be concluded. Respondent will provide proof, in writing, to the Board of successful completion of the contract.

21. This Stipulation and Order is entered into by Respondent voluntarily, after the opportunity to consult with counsel and with full understanding of the legal consequences of this Stipulation and Order.

22. In the event this Stipulation and Order does not become an Order of the Board, it shall be void and Respondent shall not be bound by any provisions hereof or admissions herein.

23. This Stipulation and Order shall become an Order of the Board when accepted by the Board and signed by an authorized Board representative.

24. This Stipulation and Order, reflecting Respondent's participation in the CNHP, is a public record in the custody of the Board. However, documentation regarding Respondent's participation in the CNHP shall be confidential, except as provided herein and by law.

25. Respondent agrees to tender his nursing license to the Board with the signing of this Stipulation and Order. Upon reinstatement, the Board will reissue the license to reflect probationary status.

RESPONDENT

COLORADO STATE BOARD OF  
NURSING

Curt Lee Smith  
Curt Lee Smith, R.N.

By: Patricia J. Uris  
1560 Broadway, Suite 880  
Denver, Colorado 80202

Effective Date: This 24 day  
of July, 2003.

APPROVED AS TO FORM

KEN SALAZAR  
Attorney General

Diana E. Black  
DIANA E. BLACK, 20099\*  
First Assistant Attorney General  
Business and Licensing Section

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